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Attorneys for Defendant
NORTHWEST AIRLINES, INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN RE: DEEP VEIN THROMBOSIS
LITIGATION

Case No. MDL No. 04-1606 VRW

STIPULATION AND ~~PROPOSED~~
ORDER FOR JUDGMENT

This Document Relates to:

*Kamil Matyska v. KLM Royal Dutch
Airlines*, Case No. C03-4102 VRW

Pursuant to Local Rules 7-11 and 7-12, defendant Northwest Airlines, Inc. ("Northwest"), by and through its attorneys, Condon & Forsyth LLP, and plaintiff Kamil Matyska, by and through his attorneys, O'Reilly & Danko, hereby stipulate as follows:

1. Plaintiff's complaint alleges a claim for relief against Northwest for treaty liability arising under the provisions of the Convention for the Unification of Certain Rules Relating to International Carriage, 49 U.S.C. § 1502, et seq. ("Warsaw Convention"). Plaintiff alleges that Northwest's alleged failure to warn of the risks of DVT constituted an "accident" under the Warsaw Convention.

2. On September 30, 2005, certain air carrier defendants filed their motions for summary judgment on the issue of whether a failure to warn can

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1 constitute an accident under Article 17 of the Warsaw Convention.

2 3. On August 18, 2006, this Court granted defendants' motions for
 3 summary judgment. The bases for the Court's decision are set forth in the Court's
 4 Amended Order filed on August 21, 2006.

5 4. Defendant Northwest did not file a motion for summary judgment in
 6 the above captioned action, because claims against Northwest were subject to the
 7 automatic stay provisions of 11 U.S.C. § 362. Since the filing of the motions,
 8 plaintiff Kamil Matyska obtained relief from the automatic stay. (See Stipulation to
 9 Lift Automatic Stay filed on August 29, 2006, MDL 04-1606, docket no. 473).

10 5. Plaintiffs in other actions against Northwest also have obtained relief
 11 from the automatic stay. Where relief from the automatic stay provisions has been
 12 obtained in the cases governed by the Warsaw Convention, this Court has entered
 13 judgment in favor of Northwest for the reasons set forth in the Court's Amended
 14 Order filed on August 21, 2006. (See Order filed on September 21, 2006, MDL 04-
 15 1606, docket no. 510.)

16 6. Northwest and plaintiff Kamil Matyska agree that the issue(s) of law
 17 presented in the previously filed air carrier defendants' motions for summary are
 18 identical to the issues against Northwest in this action.

19 7. Northwest and plaintiff Kamil Matyska agree that the same reasoning
 20 and findings in this Court's Amended Order, filed on August 21, 2006, will control
 21 the disposition of this action as to Northwest.

22 8. Northwest and plaintiff Kamil Matyska agree to be bound by this
 23 Court's Amended Order filed on August 21, 2006, granting summary judgment in
 24 favor of the air carrier defendants. Northwest and plaintiff Kamil Matyska further
 25 agree to be bound by any final decision of the Ninth Circuit Court of Appeals and
 26 the United States Supreme Court, from any appeal from this Court's Amended
 27 Order filed on August 21, 2006.

28 //

1 9. Northwest and plaintiff Kamil Matyska agree that this Stipulation
2 does not limit or waive any appellate rights any party possesses.

3 IT IS SO STIPULATED.

4
5 Dated: January 5, 2007

O'REILLY & DANKO

6
7 By: 

8 MICHAEL S. DANKO
9 STEPHEN J. PURTILL
10 KRISTINE K. MEREDITH
Attorneys for Plaintiff
KAMIL MATYSKA

11 Dated: January 8, 2007

CONDON & FORSYTH LLP

12
13
14 By: 

15 JENNIFER J. JOHNSTON
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18 NORTHWEST AIRLINES, INC.



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